should be brought to the front for censure in these matters. I am sorry the lynching occurred, and earnestly persuade and argue, and pray against the occurrence of a lynching anywhere and everywhere. It is better to appeal to the legislature for redress, as *The Constitution* has been so nobly doing in this present crisis; just as it has done for years past. Let the woman or girl victim testify by interrogatories, under well-guarded rules. Let motions for new trials be made short. Let it be understood that in these rape cases the wicked perpetrators cross the dead line, and that when there is an immediate, open and fair trial, with the verdict of an intelligent jury, that shall end it! When I say a verdict, I mean a true verdict, and let such a verdict be followed by the immediate execution of the penalty—the just penalty—such as the law pronounces against such evildoers. And let it follow publicly and openly, in the county where the crime was committed, very speedily, only three or four days, or less, after the date of the crime; and my word for it, both the crime of rape and the lynchings will nearly or quite disappear, and no longer occur or be repeated as a reproach to our civilization.

"Similar reforms are, of course, needed throughout the whole domain of criminal procedure. The National Bar Association of the United States, a few years ago, recommended almost the same reforms in criminal procedure that were recommended by the above-named committee of the Georgia Bar Association, sixteen years ago. Nearly the same reforms were after that recommended by the judiciary committee of the House of Representatives at Washington, though only part of them finally found effect or consummation in an act of Congress. Like reforms, during the intermediate period, were recommended by President Roosevelt, and also by President Taft.

"President Taft repeated these recommendations twice in his annual messages to Congress. Great leading periodicals, such as *The Journal of the Institute of American Criminal Law,* published at Urbana and Chicago, Ill., with scores and, indeed, hundreds of the leading publications of the country have followed and done the same thing. Again and again the great religious bodies of the country have spoken out on the same line. Our State Bar Association has more than once taken decided action. At the recent session of that body, only a few weeks ago, at St. Simons Island, Ga., the Georgia State Bar Association spoke out most emphatically, and took steps looking toward the creation of a committee that should formulate and recommend the proper changes and reforms, including the procedure and administration for the enforcement of the criminal law.

"Can we ever forgive ourselves if, in the conflict between the military and the mob, a thing sure to happen if the legislature does nothing, and in the conflict a hundred or more valuable lives are lost? Can anybody deny that, as was said by one of our great religious bodies, our laws ought to be 'so amended that all men may know the courts have both the will and the power to do sure and immediate justice in every case?" R. H. G.

Judge Rodenbeck on Reform.—The *Central Law Journal* says:

"At the last meeting of the New York State Bar Association, Judge Adolph J. Rodenbeck read a paper on 'The Reform of Procedure in the Courts of New York,' which has been printed in pamphlet form and extensively circulated. Judge Rodenbeck was one of the Board of Statutory Consolidation and some

of the matter contained in this pamphlet is the fruit of work done by that board toward the revision of practice. With the passage of the Consolidated Laws, indeed, there was eliminated from the Code of Civil Procedure many provisions of substantive law. Judge Rodenbeck, however, shows that there are still other provisions remaining in the Code as to the classification of which the board was in doubt, and therefore it was concluded not to disturb them. The examination of all of the provisions of the Code by the Board of Statutory Consolidation, with a view to logical classification and grouping of related topics under a single head, was also a work of permanent utility toward a scheme of Code revision. The Board of Statutory Consolidation, however, 'found that it was physically impossible to accomplish both the consolidation of the general substantive statutes and the revision of the practice, and therefore directed its efforts to the completion of the former, leaving the latter for subsequent and independent treatment.'

"Judge Rodenbeck examines, at considerable detail, various schemes for Code revision that have been formerly promulgated. He also cites in comparison, and often with approval, provisions under other systems of practice, especially the English practice rules. He formulates a scheme for the revision of the New York Code embodied in the following rules:

" 'Rule 1. The practice should be governed by a legislative practice act, which should be as brief as possible, covering the substance of procedure, and which should be supplemented by suitable rules of court covering the form of procedure, both the practice act and rules being arranged according to the same logical analysis following the steps in an action; its provisions, so far as practicable, should be general in their character, with few exceptions to such provisions and with the omission of minute details of practice, and the courts should have ample power to make rules for the orderly and expeditious dispatch of causes unhampered by technical statutory requirements (p. 59).

" 'Rule 2. The general provisions applicable to more than one step in an action should be broad and liberal in terms, should omit minute details, should contain few exceptions and should leave a wide discretion in the courts (p. 66).

" 'Rule 3. There should be provision for a complete disposition of the entire controversy by the joinder of all parties, whether jointly, severally or in the alternative, for a simple statement of all differences between them, subject to an order for a separate trial, in the discretion of the court, of any issue; for the determination at one time, so far as practicable, of preliminary questions such as pleadings, parties, admissions, discovery, interrogatories, inspection, commissions, examinations, place and mode of trial, and for a wide latitude as to securing evidence for trial (p. 84).

" 'Rule 4. All questions of fact should be disposed of finally upon one trial, so far as possible, and there should be given to the court power to submit a cause to a jury in such a way, by reserving questions of law or submitting questions in the alternative, that another trial of the same facts may be obviated (page 90).

" 'Rule 5. The court should have power to grant any relief and to render any form of judgment in favor of any party or parties as against any other party or parties that the facts warrant (page 95).

" 'Rule 6. No judgment should be set aside or new trial granted unless it appears that the error has resulted in the miscarriage of justice, and, so far

as it can be done constitutionally, only as to such questions as to which the error was committed, and the appellate courts should have power to take additional evidence so far as they can be given that power (page 105.)

"'Rule 7. The provisions for the satisfaction of a judgment should be such as to afford a prompt and effective enforcement of the judgment (page 107).'

"Our position has always been that the Code should either be very radically revised or not revised at all. In spite of its inordinate length, its assuming to regulate trivial details of practice with the solemn force of law, its higgledy-piggledy arrangement and interpolations—with all its unscientific and burdensome character—it has now been made approximately certain by practice decisions and attempts merely to patch it up would result only in new doubts. From this point of view a misgiving might be caused by Judge Rodenbeck's statement that 'a total repeal of the present system would be demoralizing. It would be unwise to adopt a practice act not based upon the present Code.' If by this it is meant that nomenclature and the general course of procedure prescribed by the present Code should not be departed from arbitrarily and merely for the sake of change, we concur. It is believed, however, that in the course of any revision in cases of doubt the leaning should be towards regulation by rules of court and not by statute.

"Hon. Elihu Root, President of the New York State Bar Association, pursuant to a resolution of that association, has appointed a committee to consider the subject, consisting of Judge Rodenbeck, John G. Milburn, William B. Hornblower, Adelbert Moot and Charles A. Collin, who, it is expected, will inaugurate some plan for advancing the work. Co-operation is solicited and suggestions may be sent to Frederick E. Wadhams, Albany, New York, secretary of the association. It is believed that co-operation and suggestions from members of the Bar, whether members of the New York State Bar Association or not, will be welcome. Judge Rodenbeck's pamphlet is certainly a valuable contribution to the literature of the subject and will amply repay perusal. His argument for the abrogation of the distinction between actions and special proceedings, for example, is cogent and convincing. Many of the features of the proposed rules above quoted have in one form or other already been much discussed during the agitation for reform in practice, now covering many years, but which has been growing more insistent and imperative during the past three or four years. Judge Rodenbeck closes with an appeal to the Bar to forego its temperamental and habitual conservatism and and to join heartily in a movement to remedy what everyone concedes to be a great evil." R. H. G.

Reform of Judicial Procedure in Oregon.—At the general election of 1910, a constitutional amendment containing the following provision was adopted by the voters of Oregon:

"In actions at law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of this State, unless the court can affirmatively say there is no evidence to support the verdict. Until otherwise provided by law, upon appeal of any case to the Supreme Court, either party may have attached to the bill of exceptions the whole testimony, the instructions of the court to the jury, and any other matter material to the